

REMARKS/ARGUMENTS

In the Office Action mailed November 4, 2008 (hereinafter, "Office Action"), claims 26-28 stand rejected under 35 U.S.C. § 112. Claims 1, 2 and 4-9 stand rejected under 35 U.S.C. § 101. Claims 1, 6, 10, 14 and 28 stand rejected under 35 U.S.C. § 102. Claims 2, 4, 5, 7-9, 11-13, 15 and 17-24 stand rejected under 35 U.S.C. § 103. Claims 1, 10, 14 and 26-28 have been amended.

Applicant respectfully responds to the Office Action.

I. Claims 26-28 Rejected Under 35 U.S.C § 112

Claims 26-28 stand rejected under 35 U.S.C. § 112, second paragraph, as failing to comply with the enablement requirement. Claims 26-28 have been amended to address this rejection. Specifically, claims 26-28 have been amended to enable one skilled in the art to determine "the numerical value assigned to each pixel." Furthermore, claims 26-28 are dependent on claim 14, which has also been amended. Specifically, in claim 14, "wherein the most unique pixel of pixels includes a least common pixel when compared to the group of pixels" has been removed from claim 14. Accordingly, Applicant respectfully requests that the rejection of claims 26-28 be withdrawn.

II. Claims 26-28 Rejected Under 35 U.S.C § 112

Claims 26-28 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 26-28 have been amended to address this rejection. Accordingly, Applicant respectfully requests that the rejection of claims 26-28 be withdrawn.

III. Claims 1, 2 and 4-9 Rejected Under 35 U.S.C. § 101

Claims 1, 2 and 4-9 stand rejected under 35 U.S.C. § 101 as not falling within one of the four statutory categories of invention. Claim 1 has been amended to address this rejection. Specifically, claim 1 has been amended to recite structure associated with a machine such as "a computing device." Support for this amendment can be found in Applicant's Specification on at least page 10,

paragraph [52]. Applicant respectfully requests that this rejection of claim 1 be withdrawn. Claims 2 and 4-9 depend either directly or indirectly from claim 1. Accordingly, Applicant respectfully requests that this rejection of claims 2 and 4-9 be withdrawn.

IV. Claims 1, 6, 10 and 14 Rejected Under 35 U.S.C. § 102(b)

Claims 1, 6, 10 and 14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,838,838 to Overton (hereinafter, "Overton"). This rejection is respectfully traversed.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 (citing Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the ... claim." Id. (citing Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, "the reference must be enabling and describe the applicant's claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention." In re Paulsen, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Applicant respectfully submits that the claims at issue, as currently amended, are patentably distinct from Overton. Overton does not disclose all of the limitations in these claims.

Claim 1 as amended recites "assigning a numerical value to each pixel in the group of pixels, wherein higher numerical values are assigned to more unique pixels and lower numerical values are assigned to less unique pixels." Support for this amendment may be found in Applicant's Specification on at least page 10, paragraph [50]. Overton does not disclose this claimed subject matter.

Instead Overton states:

If the original byte is determined to part of text, Step 6 determines, for each original pixel to be deleted, whether the pixel to be deleted is black and both its neighboring pixels are white. The pixels immediately to the right and left of the byte are assumed to be white even if, in actuality, they are not. If the criterion is not met, the pixel is simply deleted in Step 5. On the other hand, if the criterion is met, the pixel within the same byte immediately to the right

(as seen horizontally across a row of pixels) of the black pixel to be deleted is forced to be black in Step 7. The black pixel to be deleted is then deleted in Step 5 to achieve the desired horizontal scaling. In another embodiment, Step 7 forces the left neighbor to be black instead of the right neighbor.

Overton, col. 4, lines 1-13.

In the above cited portion of Overton, “for each original pixel to be deleted” it is determined whether “the pixel to be deleted is black and both its neighboring pixels are white.” However, the above cited portion of Overton does not disclose “assigning a numerical value to each pixel in the group of pixels.” The Office Action has not cited, nor can Applicant find, any portion of Overton that discloses “assigning a numerical value to each pixel in the group of pixels.”

In view of the foregoing, Applicant respectfully submits that claim 1 is patentably distinct from Overton. Accordingly, Applicant respectfully requests that the rejection of claim 1 be withdrawn because Overton does not disclose all of the subject matter of claim 1.

Claim 6 depends directly from claim 1. Accordingly, Applicant respectfully requests that the rejection of claim 6 be withdrawn.

Claims 10 and 14 have been amended to include subject matter similar to the subject matter of claim 1. As such, Applicant submits that claims 10 and 14 are patentably distinct from Overton for at least the same reasons as those presented above in connection with claim 1 and request that the rejection of these claims be withdrawn.

V. Claims 1, 10, 14 and 28 Rejected Under 35 U.S.C. § 102(b)

Claims 1, 10, 14 and 28 stand rejected under 35 U.S.C. § 102(b) as being anticipated by the article entitled “Encoding of colour images using adaptive decimation and interpolation” by Tsang et al. (hereinafter, “Tsang”). This rejection is respectfully traversed.

Claim 1 as amended recites “assigning a numerical value to each pixel in the group of pixels, wherein higher numerical values are assigned to more unique pixels and lower numerical values are assigned to less unique pixels.” Support for this amendment may be found in Applicant’s

Specification on at least page 10, paragraph [50]. Tsang does not disclose this claimed subject matter.

Tsang states:

Recently, adaptive decimation has shown significant improvement over USIC in preserving the essential edge patterns of an image along the horizontal direction. Instead of adopting a fixed decimation lattice, only pixels at sharp changing points of an intensity curve are sampled.

Tsang, page 51, col. 2, paragraph, 2. Later Tsang further clarifies the operation of the encoder when it states the following:

An overall view of the encoder is shown in Fig. 2. The source picture $X(x, y)$ is first decimated in the vertical direction by a factor K and smoothed with low-pass Gaussian filtering to a subsampled image $\bar{X}(x, y)$. The adaptive decimation scheme described is then employed to construct the sampling point sequence for each row of the image.

Tsang, page, 52, col. 1, paragraph 2.

Tsang describes decimation of an image by “adopting a fixed decimation lattice, [wherein] only pixels at sharp changing points of an intensity curve are sampled.” Tsang further describes how the “source picture $X(x, y)$ is first decimated in the vertical direction by a factor K and smoothed with low-pass Gaussian filtering to a subsampled image $\bar{X}(x, y)$.” However, the above cited portion of Tsang does not disclose “assigning a numerical value to each pixel in the group of pixels.” The Office Action has not cited nor can Applicant find any portion of Tsang that discloses “assigning a numerical value to each pixel in the group of pixels.”

In view of the foregoing, Applicant respectfully submits that claim 1 is patentably distinct from Tsang. Accordingly, Applicant respectfully requests that the rejection of claim 1 be withdrawn because Tsang does not disclose all of the subject matter of claim 1.

Claims 10 and 14 have been amended to include subject matter similar to the subject matter of claim 1. As such, Applicant submits that claims 10 and 14 are patentably distinct from Tsang for at least the same reasons as those presented above in connection with claim 1 and request that the rejection of these claims be withdrawn.

Claim 28 depends directly from claim 14. Accordingly, Applicant respectfully requests that the rejection of claim 28 be withdrawn.

VI. Claims 2, 4, 11-13, 15, 19 and 23 Rejected Under 35 U.S.C. § 103(a)

Claims 2, 4, 11-13, 15, 19 and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Overton in view of U.S. Patent No. 5,754,698 to Suzuki et al. (hereinafter, “Suzuki”). This rejection is respectfully traversed.

The factual inquiries that are relevant in the determination of obviousness are determining the scope and contents of the prior art, ascertaining the differences between the prior art and the claims in issue, resolving the level of ordinary skill in the art, and evaluating evidence of secondary consideration. KSR Int’l Co. v. Teleflex Inc., 550 U.S. ___, 2007 U.S. LEXIS 4745, at **4-5 (2007) (citing Graham v. John Deere Co. of Kansas City, 383 U.S. 1, 17-18 (1966)). As the Board of Patent Appeals and Interferences has recently confirmed, “obviousness requires a suggestion of all limitations in a claim.” In re Wada and Murphy, Appeal 2007-3733 (citing CFMT, Inc. v. Yieldup Intern. Corp., 349 F.3d 1333, 1342 (Fed. Cir. 2003)). Moreover, the analysis in support of an obviousness rejection “should be made explicit.” KSR, 2007 U.S. LEXIS 4745, at **37. “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” Id. (citing In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006)).

Applicant respectfully submits that the claims at issue are patentably distinct from the cited references. The cited references do not teach or suggest all of the subject matter of these claims.

Claims 2 and 4 depend either directly or indirectly from claim 1. Accordingly, Applicant respectfully requests that the rejection of claims 2 and 4 be withdrawn.

Claims 11-13 depend either directly or indirectly from claim 10. Accordingly, Applicant respectfully requests that the rejection of claims 11-13 be withdrawn.

Claims 15, 19 and 23 depend either directly or indirectly from claim 14. Accordingly, Applicant respectfully requests that the rejection of claims 15, 19 and 23 be withdrawn.

VII. Claims 5, 7-9, 17, 18 and 20-22 Rejected Under 35 U.S.C. § 103(a)

Claims 5, 7-9, 17, 18 and 20-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Overton in view of Suzuki in further view of U.S. Patent No. 5,097,518 to Scott et al. (hereinafter, "Scott").

The standard to establish a *prima facie* case of obviousness is provided above.

Claims 5 and 7-9 depend indirectly from claim 1. Accordingly, Applicant respectfully requests that the rejection of claims 5 and 7-9 be withdrawn.

Claims 17, 18 and 20-22 depend indirectly from claim 14. Accordingly, Applicant respectfully requests that the rejection of claims 17, 18 and 20-22 be withdrawn.

VIII. Claim 24 Rejected Under 35 U.S.C. § 103(a)

Claim 24 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Overton in view of Suzuki in further view of U.S. Patent Application Publication No. 2002/0186765 to Morley et al. (hereinafter, "Morley").

The standard to establish a *prima facie* case of obviousness is provided above.

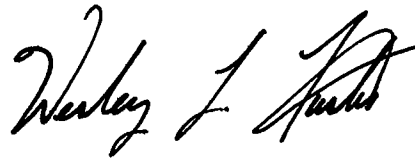
Claim 24 depends indirectly from claim 14. Accordingly, Applicant respectfully requests that the rejection of claim 24 be withdrawn.

Appl. No. 10/800,528
Amdt. dated February 4, 2009
Reply to Office Action of November 4, 2008

IX. Conclusion

Applicant respectfully asserts that all pending claims are patentably distinct from the cited references, and requests that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Wesley L. Austin". The signature is fluid and cursive, with the first name "Wesley" being the most prominent.

/Wesley L. Austin/

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Date: February 4, 2009

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